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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/577,609	04/27/2006	Frank Stengrimsen	RR-614 PCT/US	5375

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EXAMINER	
CHANG, HANWAY	

ART UNIT	PAPER NUMBER
2881	

MAIL DATE	DELIVERY MODE
11/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/577,609	STENGRIMSEN, FRANK	
	Examiner	Art Unit	
	Hanway Chang	2881	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 November 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-13,15,21 and 23-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *1-7,9-13 and 23-28* is/are allowed.

6)☒ Claim(s) *15,19,21 and 29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *27 April 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 11/09/2009 have been fully considered but they are not persuasive.

Examiner would like to reassert that the word “mould” is to be taken by its broadest, reasonable definition of "to shape or form". Furthermore, as stated by the MPEP 2113, determination of patentability is based on the product itself.

> “[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.” In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).”
>
> "The structure implied by the process steps should be considered when assessing the patentability of product-by-process claims over the prior art, especially where the product can only be defined by the process steps by which the product is made, or where the manufacturing process steps would be expected to impart distinctive structural characteristics to the final product. See, e.g., In re Garnero, 412 F.2d 276, 279, 162 USPQ 221, 223 (CCPA 1979).”

Further quoting the MPEP 2113 (emphasis added):

> “The Patent Office bears a lesser burden of proof in making out a case of prima facie obviousness for product-by-process claims because of their peculiar nature” than when a product is claimed in the conventional fashion. In re Fessmann, 489 F.2d 742, 744, 180 USPQ 324, 326 (CCPA 1974). **Once the examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product.** In re Marosi, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir. 1983).”

Therefore, the product produced by claim 29 is still unpatentable over the cited prior art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 15, 19, 21, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Low et al (US Pat. 6,639,236, hereinafter Low) in view of Wissman et al (US Pat. 7,425,195, hereinafter Wissman).

Regarding claim 29, Fig. 2 of Low discloses a storage container for radioactive material comprising an integral inner container part (5) of a first material (high density polyethylene) with a bottom and upright wall (see col. 3, lines 16-22), an integral outer container part (9) of a second material (epoxy resin) with a bottom and upright wall (see col. 3, lines 53-56), and a radioactive radiation inhibiting material (lead) in an inter-space (7) between the walls and bottoms of the inner (5) and outer (9) storage container part, respectively. Low does not teach that these container parts are formed by injection or pressure mould. However, in the same field of endeavor, Wissman discloses that the parts of a shielding device can be formed by injection (see col. 5-6, lines 66-4). In view of such teaching, it would have been obvious to the ordinary artisan at the time the invention was made to form the container parts by injection for the purpose of

controlling the shape of the container. Furthermore, the method of forming a device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Regarding claim 15, a difference between Low and the claimed invention is the outer container part has threads configured to engage threads on the lid for locking means for non-releasable locking engagement with the lid. However, in the same field of endeavor, Wissman discloses such a locking means with threads (see col. 6, lines 10-20). In view of such teaching, it would have been obvious to the ordinary artisan at the time the invention was made to have threads for a non-releasable locking engagement with the lid for the purpose of having a more secure seal.

Regarding claim 19, Fig. 2 of Low discloses that the radioactive radiation inhibiting material is made of lead (see col. 3, lines 16-22).

Regarding claim 21, Fig. 2 of Low discloses that the first material is high density polyethylene (see col. 3, lines 16-22). While Low does not disclose the second material is high density polyethylene, it would have been obvious to use high density polyethylene as a lightweight, readily available, cheap material as taught by Low (see col. 1, lines 49-54). In view of such teaching, it would have been obvious to the ordinary artisan at the time the invention was made to modify the invention of Low by having the second material be high density polyethylene for the purpose of reducing the cost of mass producing the radioactive storage containers.

Allowable Subject Matter

Claims 1-7, 9-13, and 23-28 are allowed.

Regarding claims 1, 3, 9, and 23, the prior art of record, either singularly or in combination, does not disclose or suggest the combination of limitations including, a primary mould having a mould cavity for an inner container, and a secondary mould having a mould cavity for an outer part where the secondary mould having a member for supporting the inner container part fitted within when casting the outer container part.

The dependent claims 2, 4-7, 10-13, and 24-28 are allowed due to the dependency on their respective allowed independent claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanway Chang whose telephone number is (571)270-5766. The examiner can normally be reached on Monday to Friday 7:30 AM till 4 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert H. Kim can be reached on (571)272-2293. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Hanway Chang
November 10, 2009
/H. C./
Examiner, Art Unit 2881
/ROBERT KIM/
Supervisory Patent Examiner, Art Unit 2881